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24 JUL 2006

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In re Application of  
METHA, et al.  
PCT No.: PCT/IB02/02940  
Application No.: 10/523,207  
Int. Filing Date: 29 July 2002  
Priority Date: 29 July 2002  
Atty. Docket No.: RLL-259US  
For: OXAZOLIDINONE DERIVATIVES AS  
ANTIMICROBIALS

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Petition to File When Inventor Cannot be Reached Under 37 CFR § 1.47" filed 01 March 2006 in the United States Patent and Trademark Office (USPTO). Applicant has authorized the charging of the \$200.00 petition fee. In addition, this decision incorporates applicant's "Supplemental Petition File When Inventor Cannot be Reached Under 37 CFR § 1.47" filed on 02 March 2006.

**BACKGROUND**

On 29 July 2002, applicant filed international application PCT/IB02/02940. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 February 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 January 2005.

On 27 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned declaration of the inventors.

On 01 August 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 01 March 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept

the filed declaration without the signature of joint inventor Ajay Singh Yadav accompanied by authorization to charge any fees. As such the response is being interpreted to include a petition for a five-month extension of time and payment of the appropriate extension of time fee. With the filing of the extension of time petition and payment of the extension of time fee the response is considered timely filed.

On 02 March 2006, applicant filed a supplemental petition which included a declaration executed by inventor Yadav.

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

The petition filed 01 March 2006 satisfied items (1), (3) and (4) and thus was a proper and timely response to the Form PCT/DO/EO/905 mailed 01 September 2005. As noted above, applicant filed a declaration signed by inventor Yadav on 02 March 2006 and therefore the petition is dismissed as moot. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

### CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED as moot.**

The application has an international filing date of 29 July 2002 under 35 U.S.C. 363, and will be given a date of **02 March 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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